

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:11cv244**

USA TROUSER, S.A. de C.V.,)
)
Plaintiff,)
)
v.)
)
INTERNATIONAL LEGWEAR)
GROUP, INC., et al.,)
)
Defendants.)
)

ORDER

Pending before the Court is Defendants' Motion to Dismiss [# 3].

Defendants move to dismiss the breach of fiduciary duty/constructive trust claim and the conversion claim. After Defendants filed their motion, however, the Court entered an Order striking Defendant International Legwear Group, Inc.'s ("International Legwear") Answer and directed the Clerk to enter default against Defendant International Legwear. (Order Striking Answer, Jan. 31, 2012.)

Although the Complaint is not entirely clear, it appears that Counts Two and Seven were directed solely at Defendant International Legwear and not the Individual Defendants. To the extent that the Motion to Dismiss was directed only at claims asserted against Defendant International Legwear, the Court questions whether a ruling on the Motion to Dismiss is required and whether the motion is now moot. Accordingly, the Court **DIRECTS** the parties to **SHOW CAUSE** in writing, not to exceed five (5) pages, by April 10, 2012, whether a ruling is needed on the pending Motion to Dismiss [# 3].

Signed: April 3, 2012

Dennis L. Howell

Dennis L. Howell
United States Magistrate Judge

